1950

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File No. Prevention of Cruelty II/50 (R)
Legal Deptt.
B **BRANCH**

Subject:— Rules under the Prevention of Cruelty Animals Act, 1890.

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Legal Department.

The only question raised for the opinion of the R.L.A. is whether the Act will cover poultry within the meaning of the word "animal" as defined in section 2 of the Prevention of Cruelty to Animals Act, 1890.

The Presidency Magistrate, 20th Court, Mazgaon in case No.3004 of 1949, acquitted the accused on the ground that fowls do not come within the purview of the prevention of cruelty to animals and that bird is not an animal. ~~and that bird is not an animal.~~

But the appeal from the said case was dismissed by the High Court which observed that this is not a fit case for interference. No order was recorded by the High Court.

In Emperor Vs. Ibrahim Meer Shikari (I.L.A. 41 Bom.) where the accused was carrying by train certain cranes (saras) with their eyes sealed up, the Court had occasion to interpret section 3 of the Act. Even though the accused was acquitted in the appeal, a remark by way of obiter dicta was made as follows, "It is not questioned but that the birds are animals within the section. The section as it stood then, was as follows, "If any person in any street or in any public place ..... binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering ..... shall be punished with fine etc.

As the High Court has not expressed any opinion to the contrary in the first mentioned case, the remarks in the latter case would prevail and a rule in respect of minimum accommodation for carrying poultry might be made under section 18.

A revised draft notification is sent herewith.

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Additional Secretary to Government.

U.R.to H.D.NO.3689, dated the 16th March 1950.

R.D.P.
21/6/56
S.L.